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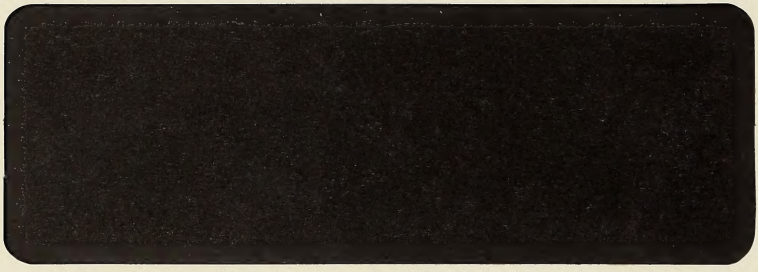
MUNICIPAL ISSUES RELATED TO IMPLEMENTING A GARDEN SUITE PROGRAM

Alberta
MUNICIPAL AFFAIRS
Housing Division



MUNICIPAL ISSUES RELATED TO IMPLEMENTING A GARDEN SUITE PROGRAM

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for

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1.0 Introduction

1.1 Background

Alberta Municipal Affairs is exploring the prospects of allowing garden suites as one of the senior citizen housing options in Alberta. As part of that effort, the Department has implemented, in cooperation with the City of Lethbridge and the County of Parkland, a garden suite pilot project. The project involved the construction, placement and occupancy of two garden suites in Lehtbridge and three in Parkland.

One of the main objectives of the pilot project is to evaluate and recommend on the appropriateness of the garden suite as a seniors' housing option and conditions and procedures for implementing this option if appropriate. To that end, a study to explore the various conditions and procedures which are preferred from a municipal perspective in developing and implementing a garden suite program has been undertaken. This report presents the findings and conclusions of that study.

1.2 Objectives and Scope

The principal objective of the study is to investigate and ascertain local acceptance of the garden suite concept, as developed for the pilot project, and to obtain technical feedback from planning and municipal approving authorities on certain key issues which may be of particular concern and interest to such authorities in understanding and implementing a garden suite program at the local level. This technical feedback will be considered by the Department in developing and implementing a garden suite program at the provincial level.

Seven issues were identified as being of particular concern and interest to planning and municipal approving authorities. The issues include:

1. the garden suite as a concept;
2. land use and development approval techniques;
3. enabling legislation;
4. methods for delivery;
5. demand for garden suites;
6. legal issues related to garden suites; and
7. municipal assessment.

Legal issues are those related to foreclosure, landlord and tenant relationships, and human rights.

1.3 Approach

The approach taken for the study involved a four step process. First, papers describing each of the seven issues were prepared to serve as a basis for discussion at two planning forums. Second, the papers were mailed out to select planning and municipal approving authorities, along with an invitation from the Deputy Minister of Alberta Municipal Affairs, to attend one of two such forums. The invitation letter is contained in Appendix I. Written responses to the papers also were requested. Third, two planning/discussion forums were held in the two pilot project municipalities of Lethbridge and Parkland. A visit to a garden suite site and a tour of the unit was included as part of the forum proceedings. Fourth, the feedback obtained at the discussion forums and from the written responses has been summarized and conclusions have been developed.

1.4 Overall Response

Issue papers and invitations to attend the discussion/planning forums were mailed out to forty two planning and municipal approving authorities. The mail out list is contained in Appendix II. A maximum attendance of forty persons was established for each forum. The Lethbridge forum, which took place on February 7th of this year, was attended by fourteen persons representing eight of the forty two authorities. The Lethbridge Housing Authority also was represented. The Housing Authority is the local garden suite management and rental agent. The list of Lethbridge participants and the organization each represents is included in Appendix III.

Attendance at the Parkland forum, which took place February 11th, was double that of the Lethbridge forum with some twenty eight participants representing thirteen planning and municipal approving authorities as well as the Meridian Foundation. The Foundation is the management agent in the County of Parkland. The list of Parkland participants is contained in Appendix IV.

In total, twenty of the forty two authorities which were invited to attend the forums were represented. The City of St. Albert was represented at both forms. Also, written responses were submitted by representatives of three municipalities which were not represented at the forums. Two written responses were provided from among those which did attend for a total of five such responses. These responses have been incorporated into the summary of discussions presented in this report and are included in Appendix V.

Overall, participation at the forums and the number of responses to the issue papers was relatively limited, in spite of a comprehensive telephone follow-up campaign. The two reasons most frequently given for not being able to participate were lack of local interest in the garden suite concept and other priorities. These factors also were cited by many forum participants as

being somewhat representative of the status of garden suites at the local level and are reflected in the discussions which took place.

1.5 Report Organization

The next seven sections of this report deal with the seven key issues which served as the basis for discussion at the forums. A description of each issue is provided followed by a summary of the discussions which took place and the resultant conclusions. The final section of the report provides a comprehensive list of the conclusions.

2.0 The Garden Suite As A Concept

2.1 Description

The garden suite concept entails the placement of a small, portable, self-contained, manufactured housing unit in the yard of a host family to accommodate one or more elderly relatives of that family. The placement of the unit is temporary, until it is no longer required by the seniors. To ensure timely removal, the unit is leased to the host family.

The intent of the concept is to allow for the type of close proximity needed to enable the family to provide the senior garden suite occupant with informal support, companionship and security, to help the senior remain in the community longer. The concept also provides a means of perpetuating close families, and allowing care and support needs to be met by the family. At the same time, both the garden suite occupant and the family retain some degree of privacy and independence.

The initial experience in the garden suite pilot project has been evaluated through a series of surveys of occupants, host families, neighbours and other key individuals and groups/agencies either directly involved in the project or concerned with seniors' housing options. The evaluation is documented in the "Preliminary Assessment of the Alberta Garden Suite Pilot Project" report and revealed general satisfaction with the units themselves and with the living arrangements. In all instances, the quality of life of both the occupants and host families improved. None of the neighbours surveyed expressed any concerns. As such, the preliminary assessment determined the concept to be a viable seniors' housing option.

The initial assessment, however, did not include a thorough measure of public and municipal acceptance on a province-wide basis, although some of the groups surveyed did express the opinion that the concept does appear to be more conducive to rural and smaller urban communities than to larger communities because of lot size and siting implications. Further, in larger urban communities, some survey respondents felt that garden suites may be accepted in some neighbourhoods, but not in others. Although these opinions are relevant, some further measure of public and municipal response to, and acceptance of, the concept is needed before a garden suite program is developed and implemented. Also, on a more detailed level, a response from municipalities to some of the critical parameters of the concept is desirable. Some parameters which are of particular interest in developing the garden suite concept are appropriate relationships between the host family and senior, and eligible occupancy age.

2.2 Discussion

The need to ensure limitations or eligibility criteria as a means of preventing potential abuse of the concept was recognized. In particular, the need to reinforce the temporary aspect of the concept through appropriate criteria was considered important, although the ability of any agency to control and enforce this aspect was questioned. Nevertheless, it was suggested by many participants that, over the longer term, serious consideration be given to expanding the concept to broaden the relationship base and age criteria to include close friends and handicapped persons under 65 years of age. The potential of expanding the concept to include non-senior, handicapped persons was considered to have significant merit. The same rationale that applies to seniors would also apply to such persons in that the arrangement would provide them with the informal family support needed to help them remain in the community longer.

Conclusions: *That the garden suite concept developed for the Alberta Garden Suite Pilot Project is an appropriate one for initially introducing garden suites into the community. It was further concluded that, once a garden suite program based upon this concept is implemented, the program eligibility criteria should be reevaluated to determine the potential for, and implications of, expanding the program to allow for a broader relationship base and non-senior handicapped persons.*

3.0 Land Use And Development Approval

3.1 Description

The land use and development approval methods used in the Alberta Garden Suite Pilot Project varied somewhat between Lethbridge and Parkland and are summarized as follows:

Lethbridge

- The Land Use Bylaw was amended to allow garden suites (defined as those units used in the pilot project) as a discretionary use. Normal amendment procedures were followed.
- Tea parties were held to inform the neighbours of the project and the appearance and specific siting criteria proposed for each unit.
- Development permits were approved conditional upon Alberta Planning Board Orders waiving Section 78 of the Planning Act. Section 78 restricts the number of dwelling units which can be placed on a lot. Both the orders and the permits are temporary and apply only for the duration of the pilot project. The Board Orders also specified the permitted garden suite occupants.

Parkland

- Tea parties were held following the same format as those held in Lethbridge.
- Development permits were approved conditional upon the ratification of Ministerial Orders declaring the sites to be Innovative Residential Development Areas under Section 149 of the Planning Act. Once again, as in Lethbridge, the orders and the permits are temporary and apply only for the duration of the project.

In both Lethbridge and Parkland, the development permit approach ensured development control at the local level. Local development control is a basic premise of the project and Alberta's planning philosophy, and is strongly supported by the Alberta government.

The land use and development approval techniques used in Lethbridge were determined by the "Preliminary Assessment of the Alberta Garden Suite Pilot Project" report to be preferable to the Parkland approach in that they more closely followed current planning practices. It is recognized that changes to Section 78 of the Planning Act will be required in order to allow for universal and unencumbered application of the land use bylaw technique at the local level. This is discussed in more detail under Issue 3. The preliminary assessment also concluded that the tea party approach used in both locations is an appropriate and desirable process for addressing neighbour sensitivity. It could easily be incorporated into the municipal land use approval process.

It is recognized that the neighbourhood tea party approach may open the door to a variety of irrelevant neighbourhood disputes. However, the potential benefits of ensuring that neighbours are properly informed, and are given an opportunity to voice concerns, are considered to outweigh such eventualities, particularly if siting and appearance concerns can be easily addressed at the outset in the land use and development approval stage. This case-by-case approach, although cumbersome, is considered most fair to all parties. Proper evaluation of each situation by

municipal officials can be facilitated through the use of municipal approval and implementation criteria. A number of the criteria developed for the pilot project could easily be adapted by municipalities for their own use. Municipal Affairs can assist local municipalities by developing suggested land use bylaw provisions which define garden suites and offer siting, parking and restoration guidelines. Servicing manuals, for use by local building inspectors, also can be provided.

An important element of this housing option is the temporary nature of the garden suite. The garden suite concept being proposed is that a unit remain on site only as long as it is required by the approved garden suite occupant. The most effective means of ensuring the temporary status of garden suites is through ownership. The ownership issue is the crux of the delivery options being considered. These options are described in Section 5.0.

3.2 Discussion

Amendment of the land use bylaw to allow garden suites as a discretionary, as opposed to a permitted, use was seen as appropriate. This approach, which was followed in Lethbridge, gives the development officer or municipal planning commission more flexibility to impose specific development conditions on a case by case basis.

Most participants opposed any legislative changes which would make tea parties a mandatory requirement in considering applications for garden suite developments, particularly since numerous other types of development could also be cited as requiring the tea party approach. In fact, some of these other types of development could be construed as being more in need of a tea party for obtaining neighbourhood input than garden suites. The land use and development approval approach used in Lethbridge, which reflects the current system and, therefore, was considered more appropriate than the Parkland approach, allowed adequate provision for neighbourhood input. Neighbours have the opportunity to object or support any development application as part of the normal approval process. Where a development is considered to be particularly sensitive, many municipalities will hold public meetings to inform those affected by a development application of possible implications and obtain input prior to making a decision on the application. This input is considered when making a decision on the application. The need for such a meeting, however, should remain a matter of local municipal discretion.

Conclusions: *That the land use and development approval approach used in Lethbridge, which followed normal, prescribed procedures and allows garden suites as a discretionary use in the land use bylaw, be used as a model by municipalities in dealing with garden suite development and that the matter of holding a tea party prior to approving garden suite development be left to the discretion of the local municipality.*

4.0 Enabling Legislation

4.1 Description

Section 78 of the Planning Act generally restricts the number of dwelling units on a lot to one. Exemptions to the operation of this Section may be granted to any person or land by the Alberta Planning Board. Such exemptions were granted in Lethbridge, on a temporary basis, for the Alberta Garden Suite Pilot Project . In Parkland, Section 149 of the Act was applied and Ministerial Orders declaring the sites to be Innovative Residential Development Areas were granted, also on a temporary basis. As was noted under Issue 2, some changes to Section 78 of the Act would be desirable to enable the universal and relatively unencumbered approval of garden suites at the local level if the garden suite concept is to be implemented.

There are at least two approaches which may be used in providing enabling legislation. The first approach is the simplest and contemplates transferring the power to exempt a person or land from the operations of Section 78 from the Alberta Planning Board to local municipal planning commissions. The power would be transferred to municipal planning commissions rather than development officers because of the potential magnitude of neighbourhood impact and the level of discretion required. The advantages of this approach are as follows:

- A one window approach would be put in place wherein the matter of garden suite approval would be handled at the municipal level rather than at the municipal/provincial levels. Appeals directed at the decision regarding the permit and/or the exemption itself also would be handled by one level of government - the same level which made the decision being appealed. As such, approval of garden suites would be very much a matter of local discretion.
- Conditions can be attached to the approval of the development permit which will ensure the garden suite concept is not abused. The most critical of these conditions include: type of dwelling (garden suite unit); name of occupant (eligible senior); and, duration of the permit (as required by the named occupant).

The second approach is to actually exempt garden suites from the operation of Section 78 of the Act. Garden suites would then need to be specifically defined by the Act. The Act also could state that provisions related to garden suites must be included in the land use bylaw. Such provisions could include a requirement to hold a tea party as described under Issue 2 in addition to the current public participation requirements. Under this approach, garden suite development would still be at the discretion of the local municipal approving authority and a one window approach would result. Other benefits which could accrue are as follows:

- Authority would be established for the province to prepare , if required, a regulation prescribing minimum or uniform standards and enforcement provisions which could be universally applied. Such an approach may be required to facilitate the initiation of a broad-based, province-wide garden suite program. Certain implementation parameters, such as economy of scale and ease of delivery, also suggest a need for a more uniform approach.
- Municipalities would be able to establish certain land use and development control conditions not normally included in a land use bylaw, such as eligible age.

There are obvious and common benefits to both approaches. Regardless of which option the province chooses, placement of garden suites should be a matter of local discretion. Municipal input, therefore, in determining which option would be preferred at the local level, and why, is not only desirable, but necessary in assisting the province in its deliberations.

4.2 Discussion

Participants favoured enabling legislation which would allow garden suites as a discretionary use in the land use bylaw. Guidlines should be included in the Act respecting the definition, use, occupancy and, most importantly, the control of garden suites. These guidlines should reflect the province's intent in introducing the garden suite as a land use thereby providing the direction, justification and rationale which municipal decision makers will require in considering applications for garden suites. The enactment of specific legislation, together with the transferance of the power to exempt Section 78 requirements to the municipality, appears most acceptable from the municipal perspective.

Although the foregoing represents the general consensus of the forum participants, some strong reservations were expressed on this issue, the most significant being related to control of occupancy of garden suites. This concern was also extensively discussed in the context of methods for delivery. The basis for the concern is that some municipalities may have no administrative mechanism or desire to control occupancy of garden suites, or of any other type of development. Some representatives were emphatic in their views that the Planning Act should concern itself with land use only and that it should not be used as a vehicle for enforcing user groups. As a result of this viewpoint, they would prefer that the power to waive Section 78 of the Act remain with the Board, thereby diluting municipal involvement and responsibility. This view was shared by a substantial number of participants, although the majority still favoured the transfer of this power to the municipality. Regardless, the level of comfort with the entire issue of enabling legislation was not high, mainly because of the uncertainties revolving around the intent and degree of support for a garden suite program on the part of the province and, more importantly, the matter of control of occupancy through the Planning Act and the land use bylaw. A suggestion at the Lethbridge forum that garden suites be introduced into the Senior Citizens' Housing Act, and then cross-referenced with the Planning Act, may provide a means of resolving this issue.

Conclusions: *That Section 78 of the Planning Act remain in effect but that consideration be given to transferring the power to exempt a person or land from the operations of this Section from the Alberta Planning Board to local municipal planning commissions. It was also concluded that further investigation into the control of occupancy of garden suites should be undertaken. The matter of control of occupancy is vital to the success of a garden suite program and to the support of municipalities in implementing such a program.*

5.0 Methods For Delivery

5.1 Description

There are different methods for delivering garden suites. They differ from one another as a result of the roles played by the public and private sectors. All methods assume that ownership of garden suites would rest with some agency other than the occupant or host family. The host family/property owner would be required to lease the unit for the occupying senior from the agent. This arrangement is seen as being critical to ensuring that garden suites are removed once they are no longer required by the occupant. Temporary conditions are essential for both municipal and neighbourhood acceptance of the garden suite concept. Such an arrangement also would eliminate both the need to establish a secondary market when the owners are ready to sell, and the potential abuse of unit occupancy in the event the units cannot be sold. Experience in Ontario and other countries has shown that secondary markets restricted to older persons are limited. The initial capital cost involved in purchasing a unit could also serve to limit accessibility of garden suites to a small, upper income group and place added pressures on an owner to make use of the unit once it is not required by the initial occupant in a manner not consistent with the garden suite concept.

With the basic ownership assumption in mind, three delivery options, distinguishable from one another by the roles of the public and private sectors, are described below:

1. Private Sector Method

This method would entail the private sector taking the lead role in marketing and delivering garden suites. The units would be owned and administered by a private rental agent, for example, a manufactured housing dealer. A business licence specifying the type and intent of the operation would be required. The agent would be able to lease, deliver, install, maintain and remove the units. Installation (including servicing) and removal (including restoration) costs would either be recovered through the rental fee or be a standard up front cost paid by the occupant/host family. The agent could provide assistance to host families in obtaining municipal approval. Control of land use and approval of occupants and host families would be a municipal responsibility using the prescribed land use and development approval process. Also, in order to ensure timely removal and proper restoration when the unit is no longer required, the municipality could require that a performance bond or letter of credit be posted. Provincial involvement would be limited to establishing enabling legislation and offering technical assistance through such methods as planning guidelines and servicing manuals. Without further provincial involvement, this approach would result in a market limited to middle and upper income households.

2. Public Sector Method

This method involves provincial ownership of the units which would be managed by local housing authorities. The role of the private sector would be to manufacture and deliver the units

to the province. The role of the municipality would be the same as with the private method - to approve and regulate land use and development, assuming provincial enabling legislation. This approach would likely result in a housing program for seniors and major capital and operating costs for the province.

3. Mixed Approach

This approach would combine the marketing and technical skills of the private sector with provincial support on an as needed basis to ensure that all income groups have access to garden suites and that an economically viable market size is maintained. The mixed option entails a private garden suite agent owning, leasing and installing garden suites, as well as assuming all maintenance, removal and restoration responsibilities. The agent would assist a family in evaluating their eligibility and in reviewing their financial situation to assess affordability. If financial assistance is required, the province could potentially provide such assistance through programs such as the Rent Supplement Program or other techniques. Approval for assistance would precede municipal approval. With the advice and assistance of the agent, the family would apply for a development permit. The municipal role again would be to ensure compliance with the land use bylaw and issue the development permit.

The roles and responsibilities of each of the key delivery agents under each option are summarized by the table which follows.

5.2 Discussion

Some participants felt that demand for garden suites may be a determinant in selecting an appropriate delivery option. Until reasonably reliable estimates are available on the number of units a garden suite program can be expected to deliver, it is difficult to forecast the economic feasibility of private sector involvement. An underriding concern expressed by numerous participants was compatibility of the profit oriented interests of the private sector with the concept of garden suites as developed in the pilot project. Again, as was the case with enabling legislation, control of occupancy was of prime concern in this regard.. Strong opposition to the municipality assuming the role of the policing agent for controlling occupancy once again was expressed.

If demand was estimated to be limited, the province was considered to be the most appropriate delivery agent through its senior housing program. Provincial ownership of garden suites would effectively eliminate concerns regarding control of occupancy since the management structure to do so is already in place. Housing authorities and/or non profit societies were considered to be the best equipped and most effective for managing and controlling garden suites. Their effectiveness is a direct consequence of provincial ownership of the units they manage which, in turn, implies provincial delivery and ownership of garden suites.

Regardless of the level of demand, there was a tendency on the part of the forum participants to lean towards a public sector option for delivery. The reasons for this tendency included concerns related to control of occupancy, the social overtones of the garden suite concept, and the provinces's current mandate of providing suitable housing and care for seniors. It was

Agencies Responsible for Garden Suite Delivery

Major Delivery Steps	Option 1 Private Sector Method	Option 2 Public Sector Method	Option 3 Mixed Approach
1. Enabling legislation is put in place.	Provincial Agent	Provincial Agent	Provincial Agent
2. Units are purchased.	Rental Agent	Provincial Agent	Rental Agent
3. Applicants are screened for eligibility and ability to pay.	Rental Agent	Provincial Agent	Rental Agent/ Provincial Agent
4. Applicants apply for land use by-law amendments and/or development permits.	Applicant/Rental Agent	Applicant/Provincial Agent	Applicant/Rental Agent
5. Amendment/permit applications are reviewed, processed, approved and issued, or refused.	Municipality	Municipality	Municipality
6. If approved, units are placed, serviced and maintained.	Rental Agent	Provincial Agent	Rental Agent
7. Units are monitored periodically to ensure compliance with permit conditions.	Municipality	Provincial Agent/ Municipality	Municipality
8. Units are removed when no longer required and site is restored.	Rental Agent	Provincial Agent	Rental Agent

suggested, in light of provincial fiscal restraints, that reallocation of resources within the current seniors' housing program be considered to allow for the delivery of a garden suite program. This suggestion assumed strong provincial support of the merits of the garden suite concept as a viable and appropriate option for seniors.

Some participants felt that the controls developed for the pilot project may not be necessary. This position apparently was based upon their view of garden suites as a measure of housing supply. Accordingly, they saw some key elements of the concept in the garden suite pilot project, such as third party ownership, portability and control of occupancy, as irrelevant

Conclusions: *That a decision on the most appropriate option for delivering garden suites be deferred until such time as estimates of effective demand are available. Such estimates will determine the magnitude of program which needs to be delivered which, in turn, will determine the most feasible and cost effective delivery option.*

6.0 Demand For Garden Suites

6.1 Description

The preliminary assessment of the Alberta Garden Suite Pilot Project concluded that a demand exists for garden suites in Alberta. However, a more precise estimate of demand is required in order to gauge market potential and spur private initiative and public sector support. To that end, Alberta Municipal Affairs has commissioned a study to estimate effective demand for garden suites in Alberta. The study approach involves the surveying of two groups: primary stakeholders, that is potential occupants and host families; and secondary stakeholders, a group which includes regional planning commissions, municipal subdivision approving authorities and appropriate seniors' organizations. This latter group is being surveyed by requesting a response to this issue paper in order to get a better feel for demand at the municipal level based upon local knowledge. Such knowledge is considered to be a major asset not only in gauging local demand for garden suites, but also in determining why such demand may or may not exist. Examples of indicators of local demand for garden suite units include:

- enquiries received as to the feasibility of placing a second unit on a property;
- applications for development permits which require an Alberta Planning Board exemption to place a second unit;
- public input dealing with garden suites, seniors' housing or other related issues obtained during preparation of regional plans, general municipal plans, land use by-laws or any other type of statutory or community plan; and,
- calls of interest or information requests directly related to the garden suite concept and/or the pilot project.

In gauging local demand, it is important to stress that interest does not translate directly into demand. For example, the number of applicants that withdrew from the pilot project upon further consideration suggests that the attitudes of some individuals toward the concept may change once its implications are fully understood. The surprisingly few number of initial garden suite applicants in both the pilot project municipalities is further testimony that actual demand may fall short of expressions of fairly high interest such as those identified by a 1987 Gallup survey based upon the National Garden Suite Demonstration Project. Regardless, interest is an important indicator of demand and does provide a measure which can be used in concert with other more objective measures. In estimating local demand, certain variable factors should be considered, including:

- urban versus rural demand levels;
- size of community;
- size of senior population;
- local development patterns and lot sizes;
- availability of seniors' accommodation;
- cultural variations and values; and,
- public acceptance.

These factors, among others, will be considered in concert with the results of the primary stakeholder group survey in estimating effective demand for garden suites.

6.2 Discussion

The majority of participants at both forums simply did not know what sort of demand may exist in their respective municipalities. Most felt it is limited. Exceptions include the two pilot project municipalities where expressions of interest are more evident. This would suggest that demand is affected by local awareness and familiarity with the concept. However, even in these two municipalities, demand is not extensive and, based upon the experience of the pilot project, expressions of interest cannot be directly translated into effective demand. In Lethbridge, according to the representative of the Lethbridge Housing Authority, "there are ten to twelve serious applications currently on file. Enquiries from the entire Lethbridge region are more numerous since placement of the pilot project units. However, the number of enquiries is not that great, certainly not in the hundreds". In Parkland, the Meridian Foundation receives four to six enquiries per month. In all other areas, forum participants reported that calls of interest were either negligible or nonexistent. This lack of interest is common in rural, semi-rural and urban municipalities alike. Interestingly, strong opposition to garden suites and, therefore limited demand, was envisioned in the semi-rural, country residential communities where density is of greater concern than in urban areas. Increased density is a common and relatively accepted occurrence in most urban areas. This is not the case in country residential areas and, for many residents, density may have been a determinant in selecting a semi-rural lifestyle. Also of interest is that some rural and semi-rural communities receive numerous applications for exemptions to Section 78 of the Planning Act to allow for a second unit to accommodate children and/or grandchildren while the parents and/or grandparents maintain occupancy of the principle dwelling.

Two additional factors were considered critical in affecting demand. First, it was suggested by numerous participants that a significant number of semi-rural and urban municipalities would oppose garden suites because they are manufactured. The negative perceptions and attitudes towards "mobile homes" remains strong in these municipalities. Such attitudes would affect both acceptance of, and demand for, the type of units used for the pilot project. This did not appear to be an issue in rural areas. Second, it was felt that demand could be increased in future through effective marketing and packaging of both the concept and the unit. Effective marketing may even overcome negative attitudes towards manufactured housing units. Also, it was felt that a limited number of units, sensitively introduced through a provincial program, would result in increased awareness, acceptance and demand. The experience in both Lethbridge and Parkland support this contention. It was suggested that the province consider introducing a limited program initially to spur interest and demand. In the longer term, once a viable market is established, the private sector could become involved.

Conclusions: *That for most areas of the province, little is presently known regarding demand for garden suites and, that in those areas where some indicators and awareness of local demand is evident, the demand is considered to be either very limited or nonexistent. This conlusion provides an indicator of demand to be used as input for the Study to Estimate Effective Demand which is currently underway. The findings of the study should be considered in determining garden suite program requirements as well as whether or not to proceed with a program.*

7.0 Legal Issues Related To Garden Suites

7.1 Description

In the course of developing the Alberta Garden Suite Pilot Project, three major legal issues were identified which may be of interest to municipalities. Preliminary assessments of these issues have been made by the Attorney General's Office and are summarized below.

1. Foreclosure Concerns

The basic question is the status of the garden suite unit in the event of a foreclosure against the property of the host family on which the unit has been placed. If the unit becomes a fixture and, therefore, a part of the land, it could be affected by a foreclosure action. Assuming a worst case scenario, the owner of the unit could lose it. If on the other hand, the garden suite remains a piece of personal property and is not a fixture, neither it nor the owner would be affected by the foreclosure.

Under the Personal Property Security Act, which came into effect on October 1, 1990, it appears that the owner of a garden suite unit will be able to register, at Land Titles Office, an interest in a chattel or piece of personal property that becomes a fixture. If the correct procedure is followed under Sections 49 and 36 of the Personal Property Security Act prior to placing the unit on the homeowner's lands, the interests of the owner of the garden suite have priority in the event of a foreclosure. A financial statement should also be filed at the Personal Property Registry to further protect the interests of the garden suite owner.

2. Landlord and Tenant Relationship

In developing the garden suite concept, the question arose as to whether or not the Landlord and Tenant Act applies to the various relationships contemplated under the concept. The three relationships which come into question in this regard are:

- between the homeowner and the lease agent (owner) of the garden suite;
- between the lease agent (owner) of the garden suite and the occupant: and,
- between the homeowner and the occupant.

In addressing this issue, it is important to remember that the basic arrangement being contemplated in implementing a garden suite program reflects the current pilot project situation wherein the owner of the garden suite leases the unit to the homeowner so that the homeowner can use it as residential accommodation to house the eligible occupants. As was discussed under foreclosure concerns, it is suggested that the garden suite be leased as a chattel or personal property by the lease agent (owner) to the host family (homeowner). Thus, it can be concluded that there is no landlord and tenant relationship between these two parties. Also, technically speaking, the garden suite owner does not deal directly, or enter into any formal arrangement, with the occupants. Therefore, it can be concluded that there is no landlord and tenant relation-

ship between these parties. The Act may apply to the arrangement between the homeowner and the occupant. However, that should not affect the rights of the owner of the garden suite.

3. Charter of Rights Concerns

The principal question as it relates to the Charter of Rights is whether or not restricting the occupancy of garden suites to seniors who have a paternal relationship with the host family and excluding other disadvantaged groups could constitute discrimination under section 15 of the Charter. On the surface, it would appear that this is the case and that garden suites should not be denied to other disadvantaged groups. However, an argument may be advanced that the garden suite program is just one element of a broader seniors' housing program, and that the latter is but one element of an overall social housing program. Also, seniors can be viewed as a definable and distinguishable group of disadvantaged people. They are generally less employable, more frail, can compete less successfully with younger people, and have physical and psychological care needs that can be provided by living in close proximity to family members. Thus, the affirmative actions provided to this definable group could be argued to be justifiable. While it is clear that the garden suite program is not accessible to every member of society, it is also true that many other elements or aspects of seniors' and social housing programs are designed for the specific needs of identifiable groups. The Attorney General's Department has been asked to review this issue further.

7.2 Discussion

The most critical legal issues were concluded to be those related to the Charter of Rights. The most pertinent comment was that if the garden suite program is challenged on the basis of the Charter, that the municipality should not be required to bear the legal costs for supporting a program which is introduced by the province. Also, it was felt that Charter issues related to garden suites could likely only be resolved in court once a challenge is made rather than by legal opinion prior to program implementation. Therefore, if the province sees a real need for the program, it should proceed since it is unlikely that this issue can be resolved prior to implementation. Finally the participants generally felt that resolution of the legal issues, to some extent, is dependent upon the selected method of delivery.

Conclusions: *That the legal issues identified continue to be investigated and that the implications of these issues on municipal government be considered as part of that investigation. Legal implications of different delivery options also should be identified.*

8.0 Municipal Assessment

8.1 Description

The manner in which garden suite units are assessed, if at all, for municipal taxation purposes is directly related to ownership of the unit. Recognizing that according to the concept being contemplated, the unit must be owned by someone other than the host family/property owner or the occupant, two ownership scenarios arise. The units could be owned either by a private sector agent or by a public sector agent. In the event that the units are owned by a private sector agent, then Section 236 of the Municipal Government Act applies. The garden suite unit will be licenced and a licence fee will be levied by the municipality in the same manner that a mobile home is licenced in a mobile home park. In the event that the unit is owned by a public sector agent, the unit may either be licenced or assessed as real property. Under the Alberta Garden Suite Pilot Project, the units are assessed as real property in Lethbridge and are licenced in Parkland. Both approaches work well and result in similar costs.

The only issue that could arise as a result of placement of the units from a municipal taxation perspective is that adjacent property owners may request a decrease in their property assessment on the basis that the garden suite unit detracts from the value of the property. However, this would be difficult to substantiate. A real estate appraisal of impact on adjacent property values of the garden suite units in Ontario, commissioned in conjunction with that province's garden suite pilot project (Portable Living Units for Seniors), concluded that placement of the units did not affect adjacent property values. Municipal assessment, therefore, should not be of concern in respect of garden suites.

8.2 Discussion

The only comment of import which was made dealt with the potential contradiction in registering a garden suite as a chattel on the one hand, under the Personal Property Security Act (Section 7.0), thereby circumventing possible foreclosure problems, and as real property on the other hand, for assessment purposes.

Conclusions: *That municipal assessment is not an issue but that the potential contradiction in defining a garden suite both as a chattel and as real property be investigated and resolved.*

9.0 Conclusions

1. The Garden Suite as a Concept: *That the garden suite concept developed for the Alberta Garden Suite Pilot Project is an appropriate one for initially introducing garden suites into the community. It was further concluded that, once a garden suite program based upon this concept is implemented, the program eligibility criteria should be reevaluated to determine the potential for, and implications of, expanding the program to allow for a broader relationship base and non-senior handicapped persons.*

2. Land Use and Development Approval: *That the land use and development approval approach used in Lethbridge, which followed normal, prescribed procedures and allows garden suites as a discretionary use in the land use bylaw, be used as a model by municipalities in dealing with garden suite development and that the matter of holding a tea party prior to approving garden suite development be left to the discretion of the local municipality.*

3. **Enabling Legislation:** *That Section 78 of the Planning Act remain in effect but that consideration be given to transferring the power to exempt a person or land from the operations of this Section from the Alberta Planning Board to local municipal planning commissions. It was also concluded that further investigation into the control of occupancy of garden suites should be undertaken. The matter of control of occupancy is vital to the success of a garden suite program and to the support of municipalities in implementing such a program.*

4. Methods for Delivery: *That a decision on the most appropriate option for delivering garden suites be deferred until such time as estimates of effective demand are available. Such estimates will determine the magnitude of program which needs to be delivered which, in turn, will determine the most feasible and cost effective delivery option.*

5. Demand for Garden Suites: *That for most areas of the province, little is presently known regarding demand for garden suites and, that in those areas where some indicators and awareness of local demand is evident, the demand is considered to be either very limited or nonexistent. This conlusion provides an indicator of demand to be used as input for the Study to Estimate Effective Demand which is currently underway. The findings of the study should be considered in determining garden suite program requirements as well as whether or not to proceed with a program.*

6. Legal Issues Related to Garden Suites: *That the legal issues identified continue to be investigated and that the implications of these issues on municipal government be considered as part of that investigation. Legal implications of different delivery options also should be identified.*

7. Municipal Assessment: *That municipal assessment is not an issue but that the potential contradiction in defining a garden suite both as a chattel and as real property be investigated and resolved.*

APPENDICES

Appendix I
Invitation Letter

January 10, 1991

Dear Sir/Madam:

Re: Garden Suite Discussion Forums

As you may recall, Alberta Municipal Affairs, the City of Lethbridge, the Lethbridge Housing Authority, the County of Parkland and the Meridian Foundation are carrying out a Garden Suite Pilot Project to explore garden suites as a suitable form of housing for older persons. The experience to date, which is documented in the two reports sent to you previously by the department, is quite positive. We have been encouraged by this positive experience and are therefore continuing to investigate a number of issues pertinent to the broader provision of garden suites as a seniors' housing option.

One of the issues we wish to explore further is municipal attitude toward the garden suite concept. Our approach to this is to distribute a series of short papers on garden suite issues pertinent to municipalities to senior officials in the major land use planning authorities in Alberta and, in co-operation with project sponsors, to hold two one-day forums to discuss them. The responses gathered at these forums will influence the province's decision on the future of the garden suite option.

We would like to involve a limited number of senior planning staff from your organization in this effort and are hereby inviting those representatives to one of the forums. The issue papers referred to above are enclosed to allow time for review and preparation for the discussions at the forums. We would also appreciate receiving written responses to these issues before or at the forums. An information sheet specifying forum dates, times, locations, agendas and a contact person has been enclosed. Because of space limitations, the number of participants at each forum will be limited to the first 40 respondents.

Please advise the contact named on the information sheet of your intent to attend and the number of persons attending as soon as possible.

We look forward to your participation and input in helping explore this new housing option.

Yours truly,

Archie R. Grover
Deputy Minister

Appendix II
Mail Out List

REGIONAL PLANNING COMMISSIONS

Mr. R. H. Botham
Director
Battle River Regional Planning Commission
5014 - 48 Avenue
Wetaskiwin, Alberta
T9A 0M9

Mr. F. Wesseling
Director
Palliser Regional Planning Commission
Drawer 1900
Hanna, Alberta
T0J 1P0

Mr. I. Robinson
Director
Calgary Regional Planning Commission
4303 - 11 Street, S.E.
Calgary, Alberta
T2G 4X1

Mr. W.G. A. Shaw
Director
Red Deer Regional Planning Commission
2830 - Bremner Avenue
Red Deer, Alberta
T4R 1M9

Mr. Ron Mattiussi
Acting Director
Edmonton Metropolitan Regional Planning Commission
9th Floor, 10303 Jasper Avenue
Edmonton, Alberta
T5J 3N6

Mr. D. Bartley
Director
South Peace Regional Planning Commission
#202, Richmond Square
9804 - 100 Avenue
Grande Prairie, Alberta
T8V 0T8

Mr. T. Baldwin
Director of Planning
Mackenzie Regional Planning Commission
P.O. Box 450
Berwyn, Alberta
T0H 0E0

Mr. A.J. Muller
Director
Southeast Alberta Regional Planning Commission
3rd Floor, 623 - 4 Street, S.E.
Medicine Hat, Alberta
T1A 0L1

Ms. L. Paterson
Executive Director
Oldman River Regional Planning Commission
905 - 4th Avenue, South
Lethbridge, Alberta
T1J 0P4

Mr. G. Allen
Director
Yellowhead Regional Planning Commission
P.O. Box 249
Onoway, Alberta
T0E 1V0

MUNICIPAL SUBDIVISION APPROVING AUTHORITIES

Mr. J. DeCocq
Director of Planning
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Airdrie, Alberta
T4B 2B6

Mr. G. Hudson
Development Officer
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10005 - 102 Street
Fort Saskatchewan, Alberta
T8L 2C5

Mr. Ted Brown
Manager
City and Community Planning Division
P.O. Box 2100
Postal Station "M"
Calgary, Alberta
T2P 2M5

Mr. R. Pfau
County Administrator
County of Grande Prairie
8611 - 108 Street
Grande Prairie, Alberta
T8V 4C5

Mr. John Timinski
City Planner
City of Camrose
5204 - 50 Avenue, City Hall
Camrose, Alberta
T4V0S8

Mr. J. Hilliard
Director of Planning
City of Leduc
Leduc Civic Centre
#1 Alexandra Park
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Mr. Paul Bates
Development Officer
Town of Canmore
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T0L 0M0

Mr. Donald Newlin
Director of Planning
City of Lloydminster
5011 - 49 Avenue
Lloydminster, Saskatchewan
S9V 0T8

Mrs. D.A. Paget
Development Officer
City of Fort McMurray
4th Flr. 9909 Franklin Avenue
Fort McMurray, Alberta
T9H 2K4

Mr. Lyle Craven
County of Mountain View
Box 100
Didsbury, Alberta
T0M 0W0

Mr. K.D. Kelly
Director of Planning and Engineering
Municipal District of Rocky View
911 - 32 Avenue N.E.
Box 3009, Station "B"
Calgary, Alberta
T2M4L6

Mr. Paul Fenwick
Director pf Planning
City of St. Albert
5 St. Anne Street
St. Albert, Alberta
T8N 3Z9

Mr. E. Lee
Manager
County of Strathcona
2001 Sherwood Drive
Sherwood Park, Alberta
T8A 3W7

Mr. Bill Clark
Development Officer
County of Wheatland
Box 90
Strathmore, Alberta
T0J 3H0

PLANNING DIVISION - ALBERTA MUNICIPAL AFFAIRS

Mr. Brian Peddigrew
Manager
Prairie Unit
Alberta Municipal Affairs
Station 12f
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Mr. Gordon Hannon
Manager
Lakeland Unit
Alberta Municipal Affairs
Station 12f
CityCentre Building

Mr. Jeffrey Pearson
Manager
Parkview Unit
Alberta Municipal Affairs
Station 12f
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CASE STUDY MUNICIPALITIES*

Mr. Gord Jackson
Principal Planner
Downtown Planning and Community
Revitalization Branch
City of Edmonton Planning and Devlopment
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Mr. H. Riva Cambrin
Secretary/Treasurer
Municipal District of Foothills
Box 160
High River, Alberta
T0L1BO

Mr. F.W. Michna
Director of Planning
City of Lethbridge Planning and
Development Department
City Hall
910 - 4th Avenue, South
Lethbridge, Alberta
T1J 0P6

Mr. Dave Barber
Manager of Planning
County of Parkland
4601 - 48 Street
Stony Plain, Alberta
T0E 2G0

Mr. Lorne McLeod
Development Officer
County of Red Deer
Box 920
Red Deer, Alberta
T4N 5H3

Mr. A. Simpson
Administrator
Town of Hanna
Box 430
Hanna, Alberta
T0J 1P0

Mr. Gordon Lundy
Town Manager
Town of Peace River
Box 6600
Peace River, Alberta
T85 1S4

Mr. Des. James
County Administrator
County of Newell
Box 130
Brooks Alberta
T0J 0J0

Mr. R.A. Doonancho
Manager
Municipal District of Bonnyville
Bag 1010
Bonnyville, Alberta
T9N 2J5

*These municipalities were surveyed in a separate study of effective demand for garden suites in Alberta.

REMAINING CITIES

Mr. R.O. Barnard
Commisioner
City of Medicine Hat
580 - 1st Street, S.E.
Medicine Hat, Alberta
T1A 8E6

Mr. John VanDoesburg
Manager
City of Wetaskiwin
Box 6266
Wetaskiwin, Alberta
T9A 2E9

Mr. R. Romanetz
City Manager
City of Drumheller
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Drumheller, Alberta
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Mr. Greg Varricchio
Planning and Development Administrator
City of Grande Prairie
9902 - 101 Street
Grande Prairie, Alberta
T8V 2P5

Mr. M. Day
City Commisioner
City of Red Deer
P.O. Box 5880
Red Deer, Alberta
T4N 3T4

Mr. John Cosgrove
Manager
City of Spruce Grove
410 King Street
Spruce Grove, Alberta
T7X 2Z1

Appendix III
List of Lethbridge Participants

Lethbridge Discussion Forum - Participants

Name	Title	Organization	Telephone #
Djamshie Rouhi	Senior Planner	Red Deer Regional Planning Commission	343-3394
Gary Weikum	Planning Superintendent	City of Lethbridge	320-3922
Jack Saunders	Senior Land Use Planner	City of Calgary	268-5425
Felix Michna	Planning Director	City of Lethbridge	320-3921
Tom Golden	Senior Planner	Oldman Regional Planning Commission	329-1344
Ajit Atwal	Deputy Director	Southeast Alberta Regional Planning Commission	527-3326
Steve Welling	Senior Planner	Southeast Alberta Regional Planning Commission	527-3326
Barry Peat	Subdivision Officer	City of Lethbridge	320-3927
Linda Henrickson	Senior Planner	Palliser Regional Planning Commission	854-3371

Karl Nemeth	Manager-Urban Planning	Calgary Regional Planning Commission	287-2472
Dan Kumpf	Residential Development Officer	City of St. Albert	459-1642
Bill Palmer	Board Member	Lethbridge Housing Authority	329-0556
Marion Marchant	Administrator	Lethbridge Housing Authority	329-0556
Pat Bunn	Alderman	City of Lethbridge	329-1187

Appendix IV
List of Parkland Participants

Parkland Discussion Forum - Participants

Name	Title	Organization	Telephone #
Greg Hofmann	Senior Planner	Yellowhead Regional Planning Commission	467-2249
Dorothy-Anne Paget	Development Officer	City of Fort McMurray	743-7884
Ian Dirom	Manager-Technical Services	City of Fort McMurray	743-7881
Colin White	Supervisor-Long Range Planning	Municipal District of Rocky View	230-1401
John Martin	Executive Director - Policy Planning	Alberta Municipal Affairs	422-5978
David Blades	Assistant Development Officer	City of Fort Saskatchewan	992-6231
Greg Screbak	Senior Planner	Edmonton Metropolitan Regional Planning Commission	423-5701
Nancy McEwan	Senior Planner	Battle River Regional Planning Commission	424-6310
Gord Jackson	Senior Planner	City of Edmonton	428-3110

Willard Hughes	Senior Planner	City of Edmonton	428-3450
George du Cloux	Senior Planner	City of St. Albert	459-1642
Mark Garrett	Director-Community Planning	City of Edmonton	428-8707
Peter Woloshyn	Reeve	County of Parkland	963-2231
Esther Fitzgerald	Councillor	County of Parkland	963-2231
Phyllis Kobasiuk	Councillor	County of Parkland	963-2231
Bert Johnston	Councillor	County of Parkland	963-2231
Doug Hall	Councillor	Town of Stony Plain	963-2151
Ingrid Schultz	Councillor	County of Parkland	963-2231
Pat Horton	Administrator	Meridian Foundation	963-3456
Bill Purdy	Chairman	Meridian Foundation	892-2280
Brian Quickfall	Executive Director-Financial Assistance and Research	Alberta Municipal Affairs	427-2142
John Cosgrove	City Manager	City of Spruce Grove	962-2611
Stan Verbisky	Planner	Alberta Municipal Affairs	427-2593

Elmar Haas	Economic Development Officer	County of Strathcona	464-8259
Joyce Perkins	Senior Development Officer	County of Strathcona	464-8020
Lorne McLeod	Development Officer	County of Red Deer	347-3364
Pat Harrington	Director of Public Services	County of Parkland	963-2231
David Barber	Manager-Planning Services	County of Parkland	963-2231

AppendixV
Written Responses

COUNTY OF WHEATLAND No. 16

P.O. BOX 90 STRATHMORE, ALBERTA T0J 3H0 PHONE: 934-3321

File: G-1500

Date: January 28, 1991

Alberta Municipal Affairs
CityCentre
10155 - 102 Street
Edmonton, Alberta
T5J 4L4

OFFICE OF THE
ASSISTANT DEPUTY MINISTER
HOUSING DIVISION
RECEIVED
FEB 4 1991
DEPARTMENT OF MUNICIPAL AFFAIRS
EDMONTON, ALBERTA

Attention: Archie R. Grover,
Deputy Minister

Dear Sir:

RE: Garden Suite Discussion Forums

I will be unable to attend either of the forums on the above matter but I do have a couple of comments which I would appreciated you considering.

(1) Issue 4: Methods for delivery

- The first paragraph mentions a potential conflict if the landowner purchases the garden suite then he would naturally want to get his monies worth by renting it out after it is not required by the initial occupant. I feel this potential problem is understated although some elaboration of this issue is discussed under the heading Charter of Rights concern.

  The municipality will be faced with two issues if garden suites are allowed as proposed.

  (a) Why allow government or privately constructed residences if a landowner has access to a less expensive structure that would serve the same purpose?

  (b) If municipalities are eventually pressured to allowing less expensive structures eg. old mobile homes etc., removing the structures later on will be a problem.

I don't have any answers to the above problem but I do see it as a major criticism of the program.

(2) Charter of Rights

How will you limit occupancy of garden suites to seniors? A small garden suite is an alternative for providing an income. What assurance is there that limitations can be imposed?

Thank you for the opportunity of commenting on this matter.

Yours truly,

Bill Clark
Development Officer

BC*wf

*1391

OLDMAN RIVER REGIONAL PLANNING COMMISSION
905 - 4th AVENUE SOUTH · LETHBRIDGE · ALBERTA · T1J 0P4
TEL. 329-1344 FAX 327-6847

Refer to File: 21M/19

March 7, 1991

Olga Lovatt
Lovatt Planning Consultants
9715 - 141 St.
EDMONTON, Alberta
T5N 2M5

Dear Olga:

Re: Comments with respect to Garden Suites

In addition to the verbal comments made at the February 7, 1991 Garden Suite Seminar held in Lethbridge, I have discussed the various issues with the staff of the Regional Planning Commission. Staff opinion, not unlike participants at the seminar, was somewhat divided. The following is a general concensus of the opinions offered at a recent staff meeting.

Issue 1 - Concept

For both the pilot program and for the early stages of any new housing program the concept should remain restricted to providing an alternate dwelling for parents who are in need of some support, physical or emotional. After the project has operated for some period of time the concept could be widened to include other needy groups. Control of the widened concept would be at the discretion of the local municipality.

At any time only one of these units should be considered for any lot and the concept of temporary dwelling should be maintained even if it is a long period of time.

Issue 2 - Approvals

It was mentioned by a staff member that officials in Australia have had experience with this type of housing and may be able to offer some advice. The actual mechanics of approval was not a major concern as long as the decision was made on the local level. It was felt that a major aspect of approval would be getting the neighbours involved with the decision. Other potential planning problems such as additions to the suite home occupations can likely be controlled through the existing municipal by-laws.

The social standards that would apply to the unit, ie. who may have one of these units, should be separate from the planning approval system.

Issue 3 - Legislation

Given the present use of section 78 of the Planning Act, it may be useful to delegate the authority to grant second residences to a more local level such as the local municipal council. Since granting this waiver would be at the local level it is understood the availability of garden suites may not be the same in all areas of the province.

. . . 2

Issue 4 - Method of Delivery

In the initial stages the project will likely be a government operated system because of the cost of start-up and the uncertainty of the market. Once the program is established, then the system may move to a mixed ownership or private operation to reduce government commitment.

A large role may be played by the various nonprofit organizations. Regardless of ownership/ management a local government related agency like the Lethbridge Housing Authority should be involved in the system of allocating units.

Issue 5 - Demand

Our staff was unable to determine any level of demand. The project is pioneering a new form of housing and if successful is likely to be the seeds for increasing demand.

At various times the Commission circulates attitude questionnaires in member municipalities to gain public opinion on general municipal plan related issues. Several staff members suggested they would be willing to add a question to the form to investigate demand.

It was felt that all our communities would likely accept this form of housing under certain conditions if the demand existed.

Issue 6 - Legal Issues

After a confusing discussion which usually occurs over legal issues we really had no particular opinion. Surely these issues can be resolved in some fashion.

Issue 7 - Assessment

Again, this is an issue where there is no opinion to be offered. Whatever system proves to be easy for municipalities to implement would be acceptable.

I hope these comments will assist your evaluation of the garden suite project. Please contact me if you require further assistance.

Yours truly,

Tom Golden
Senior Planner

for Executive Director

TG/bj

EDMONTON METROPOLITAN
REGIONAL PLANNING COMMISSION

Ross G. Quinn
CHAIRMAN
R.G. Madziya, M.A., M.C.I.P.
EXECUTIVE DIRECTOR

YOUR FILE .....

OUR FILE 6350-11-6

February 25, 1991

Ms. Olga M. Lovatt, MCIP
Lovatt Planning Consultants
9715 - 141 Street
Edmonton, Alberta
T5N 2M5

Dear Ms. Lovatt

Re: Garden Suites in Alberta: Issues for Discussion

Please find enclosed our response to the Garden Suites issues paper. I apologize for the delay in our response but it was unavoidable.

If you have any questions regarding our comments, please do not hesitate to contact me. Thank you for the opportunity to comment.

Yours truly,

Gregory Scerbak, ACP, MCIP
Senior Planner, General Planning Branch

9th floor, Metropolitan Place 10303 Jasper Avenue Edmonton, Alberta T5J 3N6 **(403) 423-5701** Fax (403) 429-2830

Garden Suites: EMRPC Response to Issues

Introduction

This brief paper outlines the comments and concerns of Commission staff upon review of the Garden Suites issue discussion paper. Our response is organized to follow the format of the discussion paper.

Issue 1: The Garden Suite as a Concept

Overall, Commission staff support the placement of a small, portable, self-contained, manufactured housing unit in the yard of a host family to accommodate one or more elderly relatives. In our view, another essential adjective (or descriptor) is "temporary". In conjunction with "temporary" is the manner of ownership. In our opinion, the garden suite concept will only work, from a land use planning perspective if the units approved are leased, not privately owned by the host family or elderly relative.

We feel it should be clearly stated as well that garden suites are only one of many alternative housing forms. We would like to see the garden suite concept put into the larger context of seniors' housing.

We do not support the notion that the concept should be broadened to include handicapped or other groups of individuals (initially).

Issue 2: Land Use and Development Approval

Our main concern regarding this issue is who would organize the "tea parties"? It may be inappropriate for local staff to be seen as the organizer (unless of course, it is the municipality that is the housing agent). Several of the staff did not like the term "tea parties".

Issue 3: Enabling Legislation

This issue created a great deal of discussion among staff. In terms of the two approaches which may be used in providing enabling legislation, there was a consensus that the first approach, that of transfering the power to waive Section 78 from the Alberta Planning Board to local muniicpalities, was preferred.

Concerns were raised regarding a stipulated age of those permitted to reside in garden suites. Staff feel that "elderly" is satisfactory in order to make decisions on a case by case basis. To stipulate a specific age would create difficulties in the future.

Another area of concern is the requirement for blood relations. The notion of "surrogate family" is credible and deserves to be included, again, on a case by case basis.

Issue 4: Methods for Delivery

There was no consensus among Commission staff on the most appropriate method for delivering garden suites. Some staff feel the private sector method would be good as long as there were some public controls. Others question if there will be enough demand for private operators outside of the Edmonton-Calgary corridor to make it economically feasible for the private sector to get into it. Some mix of delivery systems could be tried initially but demand will greatly determine delivery methods and vica-versa; delivery method and the degree of promotion of this form of housing will influence demand.

Issue 5: Demand for Garden Suites

The greatest influence on demand relates back to the original goal of the project. If the goal is to provide highly subsidized housing units, then the demand could be high. If the goal is to provide an alternatve form of seniors housing at a reasonable rate of return, then there may be less demand. This ties back to Issue 1: The Garden Suite concept and the reason why it is necessary to determine how garden suites fit into the bigger picture and to what niche is the concept being marketed. Each criteria that is added to the project definition and requirements changes the nature and size of the market. For example, if garden suites are permitted to be privately owned by the host family (or senior), the market, we believe increases.

It is also important to consider is that the demand will change over time. Over the next 20 years, as the average age of the population increases, the demand will increase. However, once the influence of the "baby boomer" bulge has crested, there will be a more than adequate supply of seniors housing. This is another good reason to deal with garden suites on a temporary, rental basis.

Issue 6: Legal Issues Related to Garden Suites

The Charter of Rights concerns focus on the preliminary stages of the process and the rights of individuals to be included in this program. We offer a different scenario for consideration. For example, an elderly relative moves into a garden suite on the property of her son and daughter-in-law. The son predeceases his mother. The elderly relative and her daughter-in-law do not "get along". The daughter-in-law is now the lessee of the garden suite unit and requests that the contract be terminated and the garden suite removed. What are the senior's rights? What are the daughter-in-law's rights?

Issue 7: Municipal Assessment

We had no comments regarding municipal assessment.

Southeast Alberta Regional Planning Commission

623 Fourth Street S.E. Medicine Hat, Alberta. T1A 0L1 Tel: (403)527-3326

Dr. Ken C. Sauer
CHAIRMAN

A.J. Muller, MA, CEng, FRTPI, MICE
EXECUTIVE DIRECTOR

cc BE
LH

FEB 14 1991

5 February 1991
File: MH 17.5.1

Mr. Archie Grover
Deputy Minister
Alberta Municipal Affairs
CityCentre, 10155 - 102 Street
Edmonton, Alberta
T5J 4L4

OFFICE OF THE
ASSISTANT DEPUTY MINISTER
HOUSING DIVISION
RECEIVED
FEB 12 1991
DEPARTMENT OF MUNICIPAL AFFAIRS
EDMONTON, ALBERTA

Dear Mr. Grover:

RE: Garden Suites in Alberta - Issues for Discussion

Your letter of January 10, 1991, addressed to the City of Medicine Hat, together with the Discussion Paper regarding the above matter has been referred to me by the City for reply, in the capacity of the City's Planning Advisor. In this regard, I have reviewed the contents of the document and would make the following comments:

ISSUE 1: The Garden Suite as a Concept

The concept of garden suite as a mode of housing for Alberta's seniors appears to be meritorious because it provides an opportunity to the seniors who wish to live in close proximity to their children. It combines both independence and family (intergenerational) companionship. The validity of this socially oriented housing tool for seniors has already been demonstrated in many countries, especially in Australia. However, any organized intervention by the public and/or private sectors to implement this concept in Alberta must be based upon, in addition to other things, a demonstrated threshold demand for garden suites and a provincially legislated guarantee that units would be occupied only by the property owners' next-of-kin, and that they would be removed from the site when no longer needed for the eligible seniors.

FEB. 7 1991

ISSUE 2: Land Use and Development Approval

It is noted in the discussion paper that the planning approval methods applied under the pilot project varied between Lethbridge and Parkland.

In Lethbridge, the Land Use By-law was amended to permit garden suites as a discretionary use. Development permits were approved subject to a waiver by the Alberta Panning Board of Section 78 of the Planning Act which restricts development of more than one unit on a lot. The Board Orders were issued for the duration of the pilot project and for the specified occupants. In Parkland, the sites were designated, under a Ministerial Order, as Innovative Residential Development Areas. The designation and other planning approvals were specified for the length of the project.

From my perspective, the Lethbridge approach is preferable because firstly, it allows application of the local land use by-law on a case-by-case basis and therefore ensures existing local autonomy and secondly, it reinforces the current development appeal process under the Act which is fair to all parties concerned.

ISSUE 3: Enabling Legislation

In order to develop an appropriate legal framework for the implementation of the garden suites concept in Alberta, two options are included in the discussion paper. As noted under ISSUE 2, first option involves a waiver by the Alberta Planning Board of Section 78 of the Planning Act which restricts more than one dwelling unit on a lot. Second option proposes to invoke Section 149 of the Act to designate Innovative Residential Development Areas by an Order-in-Council.

It seems to me that the first approach, waiver of Section 78 of the Act on a case-by-case basis, is a better approach because it completely supports Alberta's current planning philosophy that the authority of making local land use planning and development control judgements belong to local municipalities. Additionally, as it is unlikely that all garden suite sites in a municipality would be located in a contiguous fashion, therefore, the Innovative Residential Development Area designation approach would prove less than appropriate and cumbersome.

ISSUE 4: Methods of Delivery

The discussion paper proposes three options of ownership for delivering garden suite units. First, involves the private sector taking responsibility of marketing and delivering the units. Second, requires provincial ownership of the units which would be managed by local housing authorities. Third, combines the first two options.

I think that the second alternative, Public Sector Method, is the best one as it would ensure that the units are occupied by the property owners' next-of-kin and they are removed when no longer required. It may be noted that one of the main reasons for acceptance of garden suite units for seniors in Australia is that they are publicly supported/owned.

ISSUE 5: Demand for Garden Suites

According to the preliminary assessment of the pilot project a demand exists for garden suites in Alberta. However, it is imperative that a precise projection of demand for garden suites in Alberta be made before committing any major public resources, financial and otherwise, for the implementation of the garden suites concept.

In 1986, in Medicine Hat, a committee called the Needs of the Elderly Planning Committee conducted a survey to gauge demand for garden suites in the City and the area. The survey results indicated that "there weren't any great takers for granny flats". It further noted that "more than 90 percent of the seniors surveyed were not interested in living in either a granny flat or a mobile home on their children's land. About 80 percent of the seniors surveyed from Brooks, Bassano, and Empress did not favour the idea. The older people want their independence. They didn't want to be in a cottage in the yard. Some of them said they'd have to babysit too much if they lived so close ..."

ISSUE 6: Legal Issues Related to Garden Suites

As reported in the discussion paper, the pilot project has identified three legal issues: foreclosure concerns, landlord and tenant relationships, and the Charter of Rights concerns.

The City is very much interested in the preliminary assessment of the legal issues, especially the concerns surrounding the Charter of Rights. It is possible that the Charter may not allow enforcement of the two fundamental requirements of the garden suites concept: first, the units would be only used by the property owners' next-of-kin and second, they would be removed from the site when not required by the specified occupants.

ISSUE 7: Municipal Assessment

The discussion paper outlines two ownership scenarios relative to the garden suite units. First, if the unit is owned by the private sector then it will be subject to a license fee under the Municipal Government Act. Second, in the event of public ownership of the unit it may, at the discretion of the municipality, either be licensed or assessed as real property. In Lethbridge, the demonstration units have been assessed as real property and, in Parkland, they are licensed. Additionally, it is noted in the discussions paper that a property owner adjacent to the garden suite property may appeal for a decrease in his property assessment on the grounds that the garden suite has negatively impacted his property.

For the reasons noted earlier, the units should be owned/leased by the public sector. Publicly owned/leased units would allow a local municipality to either license the unit or assess it as it deems appropriate. Additionally, the pilot project must provide an answer to a question whether or not the demonstration units, especially in the urban setting, have adversely impacted on land values of the adjacent properties. This would help local municipalities to deal with any tax assessment disputes which may arise in the future regarding garden suites.

On behalf of the City, I would like to thank you and your staff for the opportunity to be part of the pilot project review process.

Yours truly,

Ajit S. Atwal, ACP, MCIP
Deputy Director/ City's Planning Advisor

ASA:jc

cc. Olga Lovalt
Lovalt Planning Consultants

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February 4, 1991

Lovatt Planning Consultants
9715 - 141 Street
Edmonton, Alberta
T5N 2M4

ATTENTION: Ms. Olga Lovatt

Dear Madam:

RE: Garden Suites in Alberta
Issues for Discussion

City of Leduc Administration has reviewed the above mentioned document. The comments that we have relate to the issues listed.

Issue 1: The Garden Suite as a Concept

The concept of a garden suite, as defined in your document, is an appropriate one. The mechanisms for the approval, maintenance and placement of such developments is of issue.

Issue 2: Land Use and Development Approval

Of inherent importance, with respect to land use and development approval, is that all permits and control of garden suites be administered by the municipality. Further, we believe that ownership of garden suites should be in the public sector, whether provincial or municipal.

Issue 3: Enabling Legislation

We believe the second approach that actually exempts garden suites from the operation of Section 78 of the Act is the most appropriate.

The initiation of a broad-based province-wide garden suite program would probably be the most cost effective, especially if the management of garden suites remained in public hands. The implementation of the garden suite concept should remain a municipal matter and should be controlled by the Council in its land use by-Law regulations.

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Issue 4: Methods for Delivery

This municipality feels that the second method, 'Public Sector Method', would be the most appropriate and simplest mechanism for delivery of this service. The use of letters of credit as outlined in the Private Sector Method would be very costly to the private developer and performance bonds are difficult to enforce. Option 3, "A Mixed Approach", would seem to add a third level of complexity of the private sector to the provision of a service.

Issue 5: Demand for Garden Suites

It is likely that once a program is initiated and the public is aware of opportunities under such a program, that there will be a demand for garden suites. The supply of such a demand, considering the temporary and service oriented nature of the garden suite, would support the management of such a process by the public sector.

Issue 6: Legal Issues Related to Garden Suites

Public ownership of garden suites would remove many of the legal concerns expressed in your document.

Issue 7: Municipal Assessment

Any local improvement should be subject to some kind of taxation to support the servicing of such a development. If the taxation is currently not permitted under existing legislation, then legislation should be established to ensure that the impact of these units is equivalent to the financial contribution they make to the municipality. If the units were in public hands, such a recovery might be accomplished by rental payments to the City.

We trust these comments are of benefit to you in evaluating the garden suite concept. As I have stated, the City of Leduc feels that the concept of garden suites is a good one. It is management in the broadest terms of such developments that is of issue.

If you wish to discuss these comments further, please feel free to contact the undersigned or the Planning Department of the City of Leduc.

Yours truly,

Marvin Littmann
City Clerk

/cjh

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